

AGENDA



Thursday, April 30, 2009

**Austin Energy
RECOMMENDATION FOR COUNCIL ACTION****Item No. 4**

Subject: Authorize negotiation and execution of a guarantee of payment in favor of Nuclear Electric Insurance Limited, of Delaware, of the City of Austin's obligation to cover its share of any retrospective premium adjustment assessed by NEIL with respect to its insurance coverage of the South Texas Project.

Amount and Source of Funding: Funding is available in the Contingency Reserve portion of Austin Energy's Strategic Reserve Fund as provided by the City of Austin's Financial Policies.

Fiscal Note: There is no unanticipated financial impact. A fiscal note is not required.

For More Information: Andy Perny, Assistant City Attorney; 322-6277

Boards and Commission Action: Recommended by the Electric Utility Commission.

Austin Energy currently owns a 16% interest in the South Texas Project ("STP"), a 2700 MW nuclear power plant in Matagorda County, Texas. STP is managed and operated by the South Texas Project Nuclear Operating Company ("STPNOC"), a non-profit corporation that was formed by the owners of STP for that sole purpose. Under the operating agreement between the owners of STP and STPNOC, Austin Energy is responsible for funding its 16% share of plant operating costs.

STP is partially insured against damages and liability from nuclear incidents through a policy with Nuclear Electric Insurance Limited, based in Delaware. The annual premiums for this policy are part of the plant operating costs for which Austin is partly responsible. A condition of the policy is that in the event of a catastrophic loss incurred by any one of NEIL's insureds, all policy holders will be subject to a retrospective premium adjustment equal to 10 times their annual premium, in order to allow NEIL to sufficiently recapitalize to cover further losses under other policies, including that covering STP. The premium paid by STPNOC fluctuates every year, but by way of example Austin's current liability exposure to a retrospective premium adjustment is approximately \$4.8 million.

NEIL has recently adopted a requirement that any insured that does not have an investment grade rating must post sufficient collateral, a letter of credit, or a guarantee of payment to back its obligation to pay a retrospective premium adjustment. STPNOC, the policy's named insured, is a non-profit and does not have an investment rating. It is therefore required to obtain collateral or guarantees sufficient to cover its commitment. Austin is thus required, in order for STPNOC to maintain insurance coverage, to provide backing for its 16% share of the premium obligation. The most advantageous means for Austin to do so is to execute a direct guarantee of payment in favor of NEIL that would guarantee payment of its 16% premium share in the event of a default by STPNOC.

Execution of a guarantee does not increase Austin's costs or liability – it merely allows the payment to be made directly to NEIL rather than through STPNOC if necessary. This is an already existing obligation to STPNOC under the operating agreement. Austin Energy therefore seeks authorization to execute a payment guarantee in favor of NEIL regarding any retrospective premium adjustment which may be assessed under STPNOC's existing policy. Payment of Austin's share from the Contingency Fund portion of the Strategic Reserve fund is consistent with the purpose of the Fund as set forth in the City's current financial policies.